

Attorney's Docket: 2001DE305
Serial No.: 10/085,368
Art Unit 1624

REMARKS

In the restriction mailed September 26, 2003, the restriction of August 12, 2003 was withdrawn and the invention was restricted into two groups, where:

Group I was drawn to claims 1-4, 6-8 and 10 (in part); and
Group II was drawn to claims 1 to 10 (in part).

Applicants traverse this restriction requirement. On page 2, of the restriction the Office states that: Group I is classified in "class 568" and Group II part is also classified in "class 568". Applicants point out that Claim 1 is generic to both groups and as the classification is the same, under MPEP 808.02 (A) that any compounds from Group II which fall under class 568 should be rejoined.

Applicants concur with the Office's assessment that the Application contains claims to patentably distinct species.

For purposes of responsiveness Applicants' elect Group I, with traverse. Applicants point out however that the office has failed to give any reason as to why claim 9 as been severed from Group I. MPEP 803 requires the office to "provide a reason and/or examples to support a conclusion" here the Office has given no reason why claim 9 was restricted out. This is odd, as on page 4 the Office classifies claim 9 as being generic. Applicants respectfully request that claim 9 be rejoined into Group I. Applicants further note that the Examiner as characterized Group I as follows:

Claims (in Part) 1-4, 6-8, 10, drawn to first recited process of making Formula (I) compounds related to boronic acid without phosphorous, silicone.

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Applicants note that in Group I it is unclear if Office restricted out the compounds where X, Y, Z are other than carbon, forming 5- and 6- membered heterocycle and non heterocycle structures. For purposes of this election Applicants must assume that compounds of Formula (I) do included compounds where X, Y, Z are other than carbon, forming 5- and 6- membered heterocycle and non heterocycle structures.

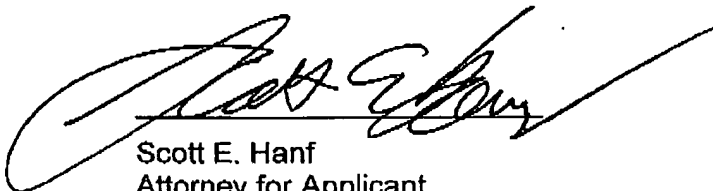
Applicants reserve the right to file one or more divisional applications to the non-elected subject matter.

Applicants again, would like to point out to the Examiner that an IDS was filed on this case on April 24, 2002. Applicant respectfully requests that these references be considered for the purposes of Examination.

As the total number of claims does not exceed the number of claims originally paid for, no fee is believed due. However if an additional fee is required, the Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

Reconsideration and allowance of this application is respectfully requested.

Respectfully submitted,



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